782 ✓
REV(CT)
dt 22/2/57

1954. **File No.** BBA 1154

RHAS — **DEPARTMENT**

BRANCH

KB
ERS Depro-129
57

Subject:—

B Class
Karnatak

Request for withdrawal of prosecution under —
Bombay Building (control on erection) Act 1948

from file
BBA 1154 I

B-Dehr
23/3/57

ERS

D
13
C

Karnatak
B Class

File No. BBA 1154

Etd. Seett. Slip. 24 A

This is a representation on behalf of Shri A.C. Kittur of Haliyal who is being prosecuted for breach of the Bldg Control Act in constructing a cinema theatre without permission of the D.M, Kanara It is stated that Shri Kittur has invested nearly Rs 80000/- in the construction & that if he is guilty of any irregularities it may be condoned as he did not contravene the law intentionally. The criminal case filed against Shri Kittur is adjourned & it is proposed to move Govt to withdraw the prosecution. It is stated that Shri Kittur may be allowed to finish the construction. (The name or names of the people who have submitted the representation is not mentioned).

2 On 12.57, the D.M, Kanara had recommended the grant of a "no objection" certificate to Shri Kittur to build a cinema theatre at Haliyal, but the applicant, without waiting for the certificate, started with the construction. The D.M was asked

asked not to give the "no objection" certificate. The D.M's suggestion to reconsider the decision was also not accepted as in addition to the construction being unauthorised, the population of Halijal is also very small - only 8,185.

r p 69 Lr. 2105

3. Shri Kittur also made use of specified building materials in the construction of the theatre without the previous permission of the Bldg Controller & Govt in the PWD has instructed the ~~D.M~~, Kanara, to prosecute him. Pl see the PWD letter no: BBA 1353/10361-H, dt 1-10-53.

4. These p/s may therefore be transferred to the PWD for ~~necessary~~ disposal after noting.

RFB
11.3.54

17/3 DS

n.o.r. & P.W.D., dt. 13/3/54.

P. W. D.
HD BCR 1954
34850
H/1613
4
163 153 sq
2

3 HD BCR 3954/34850

HD

P.W.D.

This may be returned to the H.D. with an intimation that the proposed transfer is accepted.

24/3/54

24/3/54

A.D.Y. to the H.D.

dt. 25/3/54

A.S. (II) EX

HOUSE DEPART
DCR-3954/11447
Date 26-3-54
Serial No. 5015

P.1.55

J.O. 2/3

BBA 1154/42960
P. W. D.
'H'

Pl. see the representation made to the Parliamentary Secy. to C.M., on behalf of Shri A.C. Kittur of Haliyal who is being prosecuted for committing a breach of the Bombay Bldg. (C. on E.) Act, 1948, on p. 1-5 c/s.

2. In this connection, a perusal is requested of the H.D. o/n dt. the 30-5-52, G.L., H.D., dt. the 31-8-53, o/n dt. the 29-9-53 and G.L. dt. the 1-10-53. Pl. also see para. 2 of the H.D. o/n dt. the 11-3-54. It will be seen that Shri Kittur had used 85 bags of cement, 0.87 t on of iron, 80,000 bricks and a.c. sheets in the construction of this cinema theatre. His request for permission to build a cinema theatre was refused on the ground that he (Shri Kittur) had already undertaken the construction work without obtaining a 'No objection' certificate. As Shri Kittur had completed the construction work of the theatre without obtaining the prior permission of the Controller of Bldgs as is necy. under the B'bay Bldg. (C on E) Act, 1948, it was decided to prosecute him for committing a breach of the said Act. There is, therefore, no reason why the prosecution launched against him should be withdrawn. He should not be allowed to complete the construction work of his theatre- also. There are no new grounds mentioned in the representation which would warrant reconsideration of the case.

3. In the absence of details reg. address, the name of the person who has submitted the representation etc., it does not seem possible to give a reply.

4. These papers may be submitted to the

α Slip A in file BBA 1353/32495 below
Δ Slip B —20—
* Slip C —20—
Θ Slip D —20—

Shri Kittur personally gave me this representation.
J.R.B. 16/4

Parliamentary Secy. to T.M. for information.

JM 9/4/54

J JM/9-4-54.

Addl. DS.

JR.B. 13/4/54. Parliamentary Secy. to T.M.

B.BA 1154/42960

14/4/54

H.Sec

P.WD

Resubmitted with a draft for ~~approval~~ signature.

It is presumed that H. ~~approves~~ wishes that Shri Kitlu should be given. If so H. should so indicate.

Issued 12/4

20/4/54

20/4/54

A.S. (III)

A.D.S. 13/4

20/4/1954

DEPARTMENT
BCR3954
15-2-54
No. 16 11447

A brief outline of the case regarding the Cinema Theatre at Haliyal.

The owner of the Cinema Theatre now under construction is being prosecuted for construction of the said Theatre under Section 4 read with section 9 of the Bombay Building control Act 1948, in that he did not take the permission of the District Magistrate. The history of the case is briefly asunder:-

The crying need of Haliyal that there should be a Cinema Theatre as there is no Cinema Theatre within a radius of 21 miles thereof which apart from being a mediu of amusement is also calculated to be of educational nature to the student world of Haliyal to benifit by exibition of Documentaries of Educational context and of t the films brought out by the Ministry of Broadcasting and Information, of the Government of India.

Rao Saheb A.C.Kittur, a citizen of Haliyal, was also a prominent figure in the Public life as the President of the District Local Board for three years and also as President of the Haliyal Municipality for a continuous period of nine years and was known for his Philonthrophy took upon himself the duty of supplying a long-felt want of Haliyal Town viz, the Construction of a Cinema Theatre without any profit-making nature as he decided to invest over a lac of rupees for the Theatre building an -d its eqipment in a humble town like Haliyal with a population of about 10,000 with populous villages in a close vicinity. The proposed Theatre would thus cater t over 20,000 people.

RaoSaheb Kittur has been all along a Law-abiding citizen. He was under the bona fide belief that no permission under the Bombay Building Control Act was necessary. He got his plan of the Theatre approved by the Executive Engineer of the District and started the construction. As the construction of the Theatre was about to be completed, the Overseer of the Belgaum Office in charge of Iron and Steel paid a visit to the Theatre building and made a report regarding the use of some Iron and Steel involved in the construction. Raosaheb Kittur stopped further construction and made ----- representations to the Authorities in this connection of his Bonafide belief that the Bombay Building Control

Act 1948 was not extended to the District of North Kanara. His belief was supported by the analogous case of Pandurang Vinayak and others of Ratnagiri who were prosecuted for a similar offence of putting up a Cinema Theatre without the prior permission of the District Magistrate under the Bombay Building Control Act 1948. The Trial Magistrate acquitted the accused on the ground that the said Act did not apply to the District of Ratnagiri as as the District of Ratnagiri was not included in the schedule annexed to the Act. The District of North Kanara is also not included in the Schedule.

The State of Bombay appealed against the decision in the above case. The Hon'ble Judges of the Bombay High Court agreed with the decision of the Trial Court and rejected the appeal. Thereafter, the State of Bombay went in an appeal to the Supreme Court by Special Leave. While granting Special Leave the Supreme Court took an ~~xxxxxxxxxxxxxxxx~~undertaking from the Attorney-General of India that irrespective of the decision in the appeal the Respondents i.e. Pandurang Vinayak and others would be allowed to carry out the further construction of the Theatre and that nothing would be done to their prejudice. The Supreme Court ultimately decided in favour of the State of Bombay but made observations regardi-g the language used in the Act that it was not nappy, that it was involved and that even it mislead three Judges and further that an ordinary citizen who whose rights were affected by the Act could well be be misled by the provisions of the Act where worded into thinking that the said Act did not extend to the Districts not mentioned in the schedule thereto. The decision of the Supreme Court is reported in A.I.R. 1953. S.C. at page 244.

Rao saheb Kittur never thought of committing a breach of the Bombay Building Control Act 1948 in the circumstances of the case. He was advised that the District of North Kanara was exempted from the Act. When the Overseer from Belgaum visited the Theatre and raised doubts as regards the legality of Construction, Rao Saheb stopped further ---- Construction although he has already invested more than eighty thousand rupees in the said construction. His prayer is that if at all he has been guilty of any, irregularities or even technical illegality the same may be condoned on the ground that he never intended to contravene the Law and that he was

motivated in the venture by a sense of public good viz. of supplying a genuine want of the public. He desires that the Theatre Building may be used for all Public functi-ons at Haliyal, which lacks a Hall spaciously enough to provide a meeting place for any Public Cause.

The Criminal Case filed against Rao Saheb Kittur is now adjourned sine die. It is now intended to move the Local Government to order the withdrawl of the Prosecution. A pettion will be submitted to that effect shortly to the Ministry Concerned.

On Administrative ground the permission was not accorded by Govt so far as Rao Saheb Kittur has not obtained no oBjection certificate before the Construction of the Theatre. As the Public at Haliyal as a whole have no objection to have a Theatre to facilitate Education and acquaint the programmes of Popular Govt to the illetare mass here, this irregularity ~~may~~ may be condoned. The Public would think that it would be boon to the area which is aspiring for a Cinema Theatre, if bestowed by Govt. Meanwhile Rao Saheb Kittur may be allowed to finish up the work, as half-done work is lying since long without any proper use to him and the Public as well.

Humbly submitted on behalf of Shri A.C.Kittur, to the Hon'ble Parliamentary Secretary Srimati Nirmala Devi Bhosale on the eve of her visit to our Agriculrist Taluka for the occasion of inaugeration ceremony of opening Mahila Mandal at Haliyal.

7

21-5 and 6

Below, representation on behalf of Shri A.C.Kittur of Haliy
Home Department note dated the 11th March 1954 and Public Works
Department note dated the 24th March 1954.

No.BCR.3954/11447-Poll.
Home Department (Political).
Bombay Castle, 30th March 1954.

Transferred to the Public Works Department accordingly.

Assistant Secretary to the Government of Bombay,,
Home Department (Political).

+ 1154/42960

Copy Regd. A.D. Advt. Dte

NO. BBA 1154/42960-H

P.W.D.
A.C. Ca'thagai)
21st Apm., '54.

To

Shri. A.C. Kilthur,
Haligal. (Veerasainkaad-)
Dist: Kanara.

subj:- Request for the withdrawal of the prosecution under the Bldg. (C.M.S) Act, 1948.

Sir,

With refce. to your representation P1-5 handed over to the Parliamentary Secy. to C.M., on the subj. mentioned above, I am directed to state that the prosecution launched against you cannot be withdrawn and there no permission can be given to to complete the construction work of your cinema theatre.

Registered
A.D.
I. JED
Date 22/4/54

Sd/- illegible
20/4

Sd/- illegible
-7/4

20/4/54

Yours faithfully,
illegible
ASSO.

SECRET. LETTER.

39

From

Shri J.R. Cabral, B.Sc.,
Assistant Secretary to the Government of Bombay,
Home Department (Political).

To

The District Magistrate,
Bijapur.

Subject:- Grant of cinema licences to Shri N.S. Tapashetti of Bagalkot

No.2922/5-V-C.2165-Poll. Dated the October 1954.

Reference correspondence ending with your letter No.POLSR-4471, dated the 8th July 1954, on the subject noted above.

Licences for a permanent cinema theatre at Bagalkot may be granted to Shri N.S. Tapashetti if his theatre is made fit for use.

The case papers together with the plan are returned herewith.

J.R. Cabral.

Assistant Secretary to the Government of Bombay,
Home Department (Political).

SECRET.

No.2922/5-V-C.2165-Poll.
Home Department (Political).
Bombay Castle, 5th October 1954.

Copy forwarded for information to the Public Works Department.

Secretariat

BBA 1154/20/X

S.

Assistant Secretary to the Government of Bombay,
Home Department (Political).

No case No.
HD 2922/54 C.W.D.
received from Secy. Bombay
Mr. No 96236 a 9/9 Works
dated 10 HD in 11-9-54
HPar

PPS 11/10

BBA 1154/133425

BBA 1154
133424

Submitted for information.
Record This QPar.

Pwd

Norwich

MMB 12/10/54

AS II

KSK 12/10/54